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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/575,014

08/07/2006

Hirokazu Mihashi

MURA-100

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FISHER, CHRISTEN & SABOL

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EXAMINER

BOMBERG, KENNETH

ART UNIT

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3754

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/575,014	Applicant(s) MIHASHI ET AL.	
	Examiner KENNETH BOMBERG	Art Unit 3754	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 August 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 07 April 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>4/7/06</u> . | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

Information Disclosure Statement

1. The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609.04(a) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-3 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent Application Publication 2002/0130139 to Shiraishi et al. (Shiraishi) in view of US Patent 5,497,910 to Meadows et al (Meadows).

In Reference to Claim 1

Shiraishi teaches:

A discharging container with a filter (1) comprising:

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a bottle (2) which is formed in a manner wherein an inner layer (22) peelable from an outer layer (21) is formed on an inner surface of the outer layer;
a plug body (3) placed on a mouth portion (2a) of the bottle; and
a filter provided (7) in a discharging pass (10) which is provided in the plug body for discharging liquid kept in a body of the inner layer provided;

Shiraishi further teaches:

wherein a dispensing valve (8) has a memory which expands the valve in a manner wherein a difference between an inner negative pressure and an ambient air is higher than a filtration resistance of the filter (see page 6, [0075] last 7 lines); and

wherein the negative pressure is caused by the memory of the valve (8) and by that liquid remained in a second side of the filter is sucked into a primary side of the filter (see [0043] and [0053]).

Shiraishi differs from the claim in that it is the resilient dispensing valve (8) and its associated connector sleeve (83) which causes the remaining liquid to be sucked into a primary side of the filter rather than the memory of inner layer (22) which is disclosed to be made of a synthetic resin made of a resilient material (see [0057] and [0060]).

Meadows teaches:

In Figs. 1-3 of a dispenser similar to that of applicants' and Shiraishi to make an inner layer (inner bottle 30) from a resilient (compressible) material (LDPE) configured so as to create a "suck back" vacuum (see col. 4, lines 57-62; col. 5, lines 35-43).

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It would have been obvious to one having ordinary skill in the art at the time of the invention to have applied the teaching of using the characteristics of the compressible inner bottle to suck back liquid into the inner layer of Meadows in the dispenser of Shiraishi because doing so would allow the suck back function to be performed without the use of a resilient valve.

Further the application of the teaching of Meadows to Shiraishi constitutes no more than combining prior art elements according to known methods to yield predictable results and the use of a known technique to improve similar device in the same way supporting a conclusion of obviousness in accordance with the guidance of *KSR International Co. v. Teleflex Inc.* (KSR), 550 U.S. ___, 82 USPQ2d 1385

In Reference to Claim 2

See Shiraishi [0067].

In Reference to Claim 3

See Shiraishi Fig. 1.

Conclusion

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The remaining references listed on the attached PTO-892 have been included because they show hand held dispensing devices with inner and outer compressible containers.

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5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to KENNETH BOMBERG whose telephone number is (571)272-4922. The examiner can normally be reached on Monday-Thursday and alternative Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin P. Shaver can be reached on (571)272-4720. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

KB

/Kenneth Bomberg/
Primary Examiner, Art Unit 3754